

SENATE BILL REPORT

SB 5052

As Reported By Senate Committee On:
Financial Institutions & Insurance, February 27, 2007

Title: An act relating to auto glass repair and third party administrators.

Brief Description: Prohibiting interested third parties from processing insurance claims.

Sponsors: Senators Eide, Roach, Franklin, Hobbs, Fairley, Kastama, Prentice, Jacobsen, Shin and Parlette.

Brief History:

Committee Activity: Financial Institutions & Insurance: 1/17/07, 2/21/07, 2/27/07 [DPS].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: That Substitute Senate Bill No. 5052 be substituted therefor, and the substitute bill do pass.

Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton, Ranking Minority Member; Franklin, Hatfield, Parlette and Schoesler.

Staff: Diane Smith (786-7410)

Background: An insurance company may hire a third party to administer the payment of claims on the insurance company's behalf. This third party can be an independent association, private business entity, or the like. The administration of claims is subject to a contract between the insurance company and the third party. This contract may include investigation, verification and adjustment of claims, as well as payment of claims.

The relationship between the business activities of the third-party administrator and the nature of the claim being administered by the third-party administrator is not directly subject to any provision of existing law.

Summary of Bill: Third-party administration of auto glass claims is prohibited if the third-party administrator engages in the auto glass business.

Violation of these provisions makes the third-party administrator subject to revocation of its certificate of authority and a fine of \$250 to \$10,000.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Financial Institutions & Insurance): The bill is changed from a prohibition on the contract for claims administration for auto glass between an insurance

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company and an auto glass business to regulation of the relationship between the customer and the auto glass repair facility that is the third-party administrator for the insurance company.

The customer's right to choose any auto glass facility is declared. Verbal disclosure from the third-party administrator to the customer that the customer has the right to choose and that the third-party administrator is a separate entity from and has a financial arrangement with the insurer is required.

In addition, it is required that: (1) a written notice of the verbal disclosures in each repair facility owned by an insurer or third-party administrator is posted, and prior, verbal transmission to the customer if the transaction is done by a mobile facility; (2) the right to file a complaint with the Office of the Insurance Commissioner is given to the customer; and (3) it is stated that no private right of action is created.

Appropriation: None.

Fiscal Note: Requested on January 15, 2007.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: Our business is 75 percent repeat business. We build up a reputation with each job and customer. Having our customers be told over an 800-number that they should go to a competitor that handles the claims for the customer's insurance company feels like they are robbing us blind. Our customers' confidence in us is obliterated with that phone call. They are told they could not verify coverage or that they will not guarantee the work. Business losses are up to 70 percent on the peninsula. The invoices we do send in are then used by our competitors to locate their new shops. Auto glass handles 60 percent of the impact of collisions. High speed and sloppy work are dangerous to the consumer. Before insurance companies developed the Safelite network, we billed insurance companies directly. The network uses a script that steers customers to Safelite shops. Anti-steering laws are not enforced. The words said are only part of the picture: there is also tone and innuendo. Customers receive the message that they really don't have a choice at all, even when the customer knows there is another shop near to them, or that can make an immediate mobile call, they can't use it and still keep their insurance coverage.

Our shop joined the network thinking the steering would stop. In eight years we have gotten one referral from the network for one \$50 glass chip repair in Montana. This network system allows one company to own all three profit centers in the auto glass business and to use the power of a vertical monopoly to undercut our prices and drive us out of business.

CON: There are myriad models of competition. Some insurers use companies knowledgeable and experienced in the glass business, as third-party administrators (TPAs) to administer glass claims. This is only one model but it is in full compliance with Washington laws. The definitions in the bill are overbroad, unclear, and exceedingly restrictive. It could mean that the insurers cannot contract with anyone who knows the glass business. The obligation is to the policyholder to return to pre-damage condition: not to be a financier for small glass businesses. The bill undermines insurers' cost-management capabilities. This is a business-to-business dispute. It is the responsibility of the insurer to serve the customer. The

anecdotal circumstances materialize these scripts which are written to comply with the code. Customers without a preference can use cost-effective shops.

Some insurers do not use TPAs but do use Safelite as a referral of choice if the consumer does not have a preference. The Office of the Insurance Commissioner already has regulatory authority to address steering, unfair and deceptive acts.

Persons Testifying on Original Bill: PRO: Mike McKinney, McKinney's Auto Glass; Bill Goodnight, Genuine Auto Glass; Chris King, Ding Doctor Glass Services; John V. Gore, Grizzly Glass Centers; Pam Shearer, Auto Glass Plus; Tom Grim, Washington Independent Glass Association, Christy Newman, Proctor Lane.

CON: Mel Sorensen, Property Casualty Insurers Association of America, Allstate, American Family Insurance; Jean Leonard, State Farm Washington Insurer; Mike Kapphahn, Farmers Insurance; Cliff Webster, American Insurance Association; Carrie Tellefson, Progressive Insurance.

Staff Summary of Public Testimony on Proposed Substitute: PRO: The substitute bill gives customers full information so that they can exercise their rights to engage in a competitive environment. I would change "a person" to "an insured." Using "insured" leaves out the injured third party not insured by the company that is paying for the claim.

OTHER: While this is a vast improvement, I want the notification to be in writing or verbal, but not both.

Persons Testifying on Proposed Substitute: PRO: Mel Sorenson, Property Casualty Insurance; Jean Leonard, State Farm Washington Insurers; Mike Kapphohn, Farmers Insurance; Christy Newman, All-Star Auto Glass; Pam Shearer, Auto Glass Plus.

OTHER: Dan Coyne, Safelite Group.